LITTLE PRINCESS'S INVESTMENT CO.

P.O. BOX 1762 PORTER, TEXAS 77365 PHONE: (281) 354-2550 / FAX:(281) 354-6184

February 14, 2007

Ms. LaDonna Castanuela Texas Commission on Environmental Quality Office of Chief Clerk MC-105 P.O. Box 13087 Austin, Texas 78711-3087

RE: Motion to Overturn (Clarification of Property Location)

Elan Development. LP Permit WQ0014694001 TCEQ Docket 2007-0012-MWD

Dear LaDonna,

This is my supplement to the Little Princess Investment Co. request to overturn the permit issued to Elan Development, WQ0014694001 that was dated 1/8/2007. Based on response from some of the interested parties (R. Brush, TCEQ Staff Attorney and Mary McKaughan, Public Interest Council) we did not clarify our property location. Listed on the next pages are the clarification of property location and lack of natural drainage.

Sincerely

Tom A. Martin, Partner

Little Princess Investment C

Little Princess Investment, Co.

Cc: M.G. Manners, Elan Development, L.P.

Cc: David Warner, P.E., Montgomery & Associates

Cc: Kerrie Qualtrough, Senior Attorney, TCEQ

Cc: David U. Akoma, Technical Staff, TCEQ, Water Quality Division, MC-148

Cc: Jody Henneke, Director, TCEQ, Office of Public Assistance, MC-108

Cc: Mr. Blas J. Coy, Jr., Attorney, TCEQ, Public Interest Council, MC-103

Cc: Mark Zeppa, Attorney, Austin, Texas

Cc: William Fowler, Attorney, Conroe, Texas

Cc: Robert Brush, TCEQ Staff Attorney

Cc: Mary Alice McKaughan, Public Interest Council

Cc: David Klein, Attorney, Austin, Texas

Cc: Jeffrey D. Lochore, Partner, Little Princess Investment Co.

It appears that TCEQ has failed to identify Little Princess's property that <u>is</u> directly in the discharge path of the proposed permit.

Our property is parcel #42, the property Mr. Brush refers to (in his request to cancel the hearing) as the property owned by FM 1314-Oak Tree Ltd. We purchased it in early 2006. We were not notified as required by law and in fact, Elan Developments engineer admitted to my partner, Jeff Lochore, that he obviously did not have up to date ownership records and so notification was <u>not</u> sent to Little Princess.

We have 3 distinct reasons for the permit to be overturned.

- 1. No ditch tributary or drainage easement crosses our property and in fact, doesn't cross the property behind us where Elan Development's discharge path describes "a series of drainage ditches". There are <u>no</u> such ditches, have never been, and this is obvious for over a 3 mile path from Elam Developments proposed waste water facility thru our property and other land owners between us and Dry Creek.
- 2. We have platted our 79 acres into a residential subdivision with all lots facing Old Houston Road, with marketing scheduled to begin in March of this year. We did not engineer any roads or drainage on our property, having to use existing Old Houston Road frontage because there was no drainage ditch or tributary available for us to design drainage acceptable to Montgomery County. (Final Plat attached)
- 3. Mr. Brush indicated that TCEO, Region 12 sent an Inspector to the area and they found 2 culverts crossing Old Houston Road, and a 15' to 20' channel on our property, but it was only visible for $\cong 100$ feet. They were correct in that at approximately 100 feet, the so-called channel stops. There is no drainage channel. I am completely familiar with this so-called crossing. In the early 80's the East Montgomery County Precinct 4 Commissioner was widening and paving Old Houston Road. This was a low spot where water stood over the county road after heavy rains. That Commissioner dropped 2 culverts in the low spot, covered them with dirt to build the road up so it would not stand in water after heavy rains. He even had the dozer operator who spread the dirt take the dozer and clear about 100 feet off the road, cutting it down about a foot so that the water would stand there rather than right beside the road. The Commissioner (Bull Sallas) believed in "on the spot" engineering to solve his drainage problems. I was there when this took place. At the time, "Bull" did not take the time to find out who owned the property saying that those big timber companies, or other landowners didn't care if he dumped a little water off his roads onto their property.

If TCEQ wants to survey this spot, it will show that the property rises at the end of this so-called channel. There is <u>no</u> drainage ditch. I am including a copy of the ownership maps showing our 79 acres and our deed. The map shows 97 acres owned by FM 1314-Oak Tree Ltd., (it is really only 89 acres)

but they sold approximately 10 acres at the north end to Clifford Potter in 2004 or 2005 and we bought the remaining 79 acres in early 2006.

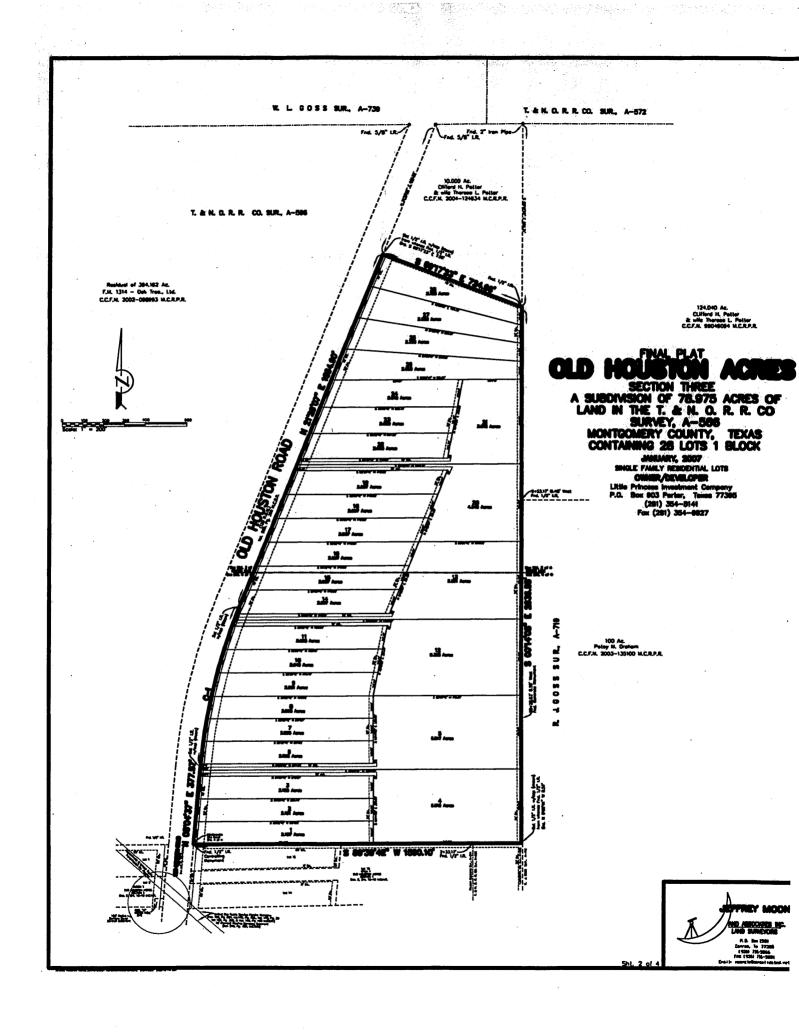
I have enclosed the Hodge Mason Map Overlay of the area that show's our 79 acres and the elevations. It clearly shows <u>no</u> drainage ditches, tributary's on any of these properties. The whole area is almost flat. I have also enclosed our final plat of this 79 acres, where we plan to begin marketing of 28 tracts, all facing Old Houston Road, within 60 days.

Also a response several weeks ago from Elan Development's attorney stated that our attorney, Mark Zeppa, had no knowledge of our situation. He certainly does now and will be in contact with all parties concerned. My water company (Crystal Springs Water Co., Inc.) employs Mr. Zeppa for water and sewer legal issues. It was my fault that I didn't identify to him that I was a partner in Little Princess Investments.

Mr. Brush also states we failed to disclose the physical location of our 79 acres. Map showing our property were included in our correspondence to TCEQ, but the maps did show FM 1314 (Oak Tree Ltd.) as owners, when in fact, Little Princess Investments owns it. Please contact me, Tom A. Martin, partner in Little Princess Investments, or my attorney, Mark Zeppa.

Sincerely

Little Princess Investments



PAGE 02 MONTGOMERY COUNTY TITLE CO 3005 Wast Davis, Suite 100 Contab. Toxas 77304 (936) 441-4889

06040453 NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

> WARRANTY DEED (with Vendor's Lien)

THE STATE OF TEXAS

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2006-052253

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF MONTGOMERY

THAT, FM 1314-OAK TREE, LTD., a Texas Limited Partnership, hereinafter called Grantor, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by Grantee of its one certain promissory note of even date herewith, in the sum of FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$450,000,00), payable to the order of TEXAS COMMUNITY BANK, N.A. and bearing interest at the rate therein specified, said Note providing for acceleration of maturity in event of default and for attorney's fees, the payment of which Note is secured by the Vendor's Lien herein retained, and is additionally secured by a Deed of Trust of even date herewith, to JAMES EBREY, Trustee, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto

> LITTLE PRINCESS'S INVESTMENT COMPANY. a Texas General Partnership, composed of TOM A. MARTIN and J.D.L. PROPERTIES, INC. 1395 North Park Kingwood, Texas 77339

hereinafter called Grantee, all of that certain lot, tract or parcel of land, together with all improvements thereon, lying and being situated in the County of MONTGOMERY, State of Texas, described as follows:

77.68 acres of land in the T & NORR SURVEY, Abstract No. 966, Montgomery County, Texas, and being more particularly described by metes and bounds in Deed of Trust recorded under Clerk's File No. 2006-025600, Real Property Records of Montgomery County, Texas.

This conveyance is made and accepted subject to any and all valid covenants, conditions, restrictions, easements and outstanding mineral and/or royalty interests in the oil, gas, and other minerals and leases thereon, now outstanding or affecting the premises herein conveyed, now of record in the County Clerk's office of MONTGOMERY County, Texas, but only to the extent they are still in force and effect.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, Grantee's successors and assigns forever, and Grantor does hereby bind Grantor, Grantor's successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, Grantee's heirs, administrators, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

But it is expressly agreed that the Vendor's Lien, as well as the Superior Title in and to the above described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon is fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute.

THAT TEXAS COMMUNITY BANK, N.A., at the instance and request of the Grantees herein, having advanced and paid in cash to the Grantors herein that portion of the purchase price of the herein described property as is evidenced by the hereinabove described \$450,000.00 Note, the Vendor's Lien, together with the Superior Title to said property is retained herein for the benefit of said Lender and the same are hereby TRANSFERRED AND ASSIGNED to TEXAS COMMUNITY BANK, N.A.,

EXECUTED this

FM-1314-OAK TREE, LTD., a Texas Limited Partnership

078-11-2427

THE STATE OF TEXAS

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COUNTY OF MONTGOMERY

This instrument acknowledged before me on this 9 day of May, 2006, by Withompson, General Partners of FM 1314-OAK TREE, LTD., a Texas Limited Partnership, and in such capacity.

SUSAN J. KAST Notary Public, State of Texes My Commission Expires December 10, 2008

AFTER RECORDING RETURN TO:

LITTLE PRINCESS'S INVESTMENT CO. 1395 North Park Kingwood, Texas 77339

P:\Montgomery County Title\Dccd\FM1314.vl.wpd

EXHIBIT "A"

Bill Thompson

FIELD NOTES

TO A 77.68 ACRE TRACT OF LAND OUT OF A CALLED 603 8/10 ACRE TRACT CONVEYED BY C. W. NUGENT TO JOHN WAHRENBERGER IN VOLUME 58, PAGE 358 OF THE MONTGOMERY COUNTY DEED RECORDS, DATED JUNE 11, 1910; THE 603 8/10 ACRES BEING GRANTED TO THE TEXAS AND NEW ORLEANS RAILWAY COMPANY BY THE STATE OF TEXAS CERTIFICATE NUMBER ONE (1). BEING PART OF SURVEY NUMBER ONE (1); SAID 77.68 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS, AS FOLLOWS:

BEGINNING for REFERENCE at a 2" iron pipe found at the northeast corner of the Wahrenberger tract, being also the northeast corner of the T.& N.O. Survey, A-566 and the northwest corner of the R. J. Goss Survey, A-719; THENCE, S0°09'30"E, 897.08 feet along the T.&NO. /Goss common Survey line to a 1/2" iron rod set for POINT OF BEGINNING and the northeast corner of this survey;

THENCE, S0°09'30"E, along the east line of this survey and the common T.&N.O./Goss Survey line, 2,636.20 feet to a 1/2" iron rod found for southeast corner hereof:

THENCE, S89°44'26W along the south line of this survey, pass at 233.10 feet a 1/2" iron rod found for an inside corner of the T. &N.O. A-566 Survey, being also a northeast corner of the Reuben Copeland Survey A-671, continuing along a barbed wire fence a total distance of 1,590.01 feet to a 5/8" iron rod found for a point in the east line of the Old Houston Road (120' R.O. W.), and the southwest corner hereof;

THENCE, along the east line of the Old Houston Road and west line hereof the following calls:

- N05°03'42"E, 356.55 feet to a 5/8" iron rod found; 1)
- N12°55'56"E, along the chord of a curve to the right, whose radius is 2,121.28 2) feet, a distance of 579.83 feet to a 5/8" iron rod found;
- N20°47'51"E, 2115.43 feet to a 1/2" iron rod set for northwest corner hereof; 3)

THENCE, along the north line hereof and the south line of a residual 10.01 Acres of the Wahrenberger Tract, S69°12'45"E, 717.06 feet to the point of beginning, and containing 77.68 Acres.

CERTIFICATION

I HEREBY CERTIFY THAT THESE FIELD NOTES CORRECTLY REPRESENT THE D BY THE ATTACHED PLAT. SURVEY MADE ON THE GOUND A

Paul S. Boedeker, P.E., R.P.L.S.

078-11-2429

FILED FOR RECORD

06 MAY 15 AM 9: 36

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was filed in stamped herein by me and was duly RECORDED in Montgomery County, Texas.

MAY 1 5 2006

County Clerk

Montgomery County, Texas

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

CORRECTION WARRANTY DEED

(with Vendor's Lien)

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS;

COUNTY OF MONTGOMERY

THAT, FM 1314-OAK TREE, LTD., a Texas Limited Partnership, hereinafter called Grantor, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by Grantee of its one certain promissory note of even date herewith, in the sum of FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$450,000.00), payable to the order of TEXAS COMMUNITY BANK, N.A. and bearing interest at the rate therein specified, said Note providing for acceleration of maturity in event of default and for attorney's fees, the payment of which Note is secured by the Vendor's Lien herein retained, and is additionally secured by a Deed of Trust of even date herewith, to James Ebrey, Trustee, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto

LITTLE PRINCESS INVESTMENT COMPANY, a Texas General Partnership, composed of TOM A. MARTIN and J.D.L. PROPERTIES, INC. 1395 NORTH PARK KINGWOOD, TEXAS 77339

hereinafter called Grantee, all of those certain lots, tracts or parcels of land, together with all improvements thereon, lying and being situated in the County of MONTGOMERY, State of Texas, described as follows:

BEING 78.975 acres of land in the T. & N. O. R. R. CO. Survey, A-566, Montgomery County, Texas, said 78.975 acres being out of the William G. Thompson, Trustee 97.952 acre tract of land deed of which is recorded under County Clerk's File Number 9025436, of the Montgomery County Real Property Records, said 78.975 acres being a re-survey of the Little Princess Investment Company 77.68 acre tract of land deed of which is recorded under County Clerk's File Number 2006-052253, Montgomery County Real Property Records, said 78.975 acres being more particularly described on Exhibit "A" attached hereto.

This conveyance is made and accepted subject to any and all valid covenants, conditions, restrictions, easements and outstanding mineral and/or royalty interests in the oil, gas, and other minerals and leases thereon, now outstanding or affecting the premises herein conveyed, now of record in the County Clerk's office of MONTGOMERY County, Texas, but only to the extent they are still in force and effect.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, Grantee's successors and assigns forever, and Grantors do hereby bind Grantor, Grantor's heirs, administrators, executors, and assigns to WARRARI AND FOREVER DEFEND all and singular the said premises the said Grantee, Grantee's successors and assigns, against every person whomsoever lawfully a claim the same or a part thereof.

described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon is fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute.

THAT TEXAS COMMUNITY BANK, N.A., at the instance and request of the Grantee herein, having advanced and paid in cash to the Grantors herein that portion of the purchase price of the herein described property as is evidenced by the hereinabove described \$450,000.00 Note, the Vendor's Lien, together with the Superior Title to said property is retained herein for the benefit of said Lender and the same are hereby TRANSFERRED AND ASSIGNED to TEXAS COMMUNITY BANK, N.A.

THIS DEED IS MADE IN PLACE OF AND AS A DEED OF CORRECTION TO A DEED EXECUTED BY GRANTOR HEREIN TO GRANTEE, DATED MAY 9, 2006 AND RECORDED UNDER CLERK'S FILE NO. 2006-052253, REAL PROPERTY RECORDS OF MONTGOMERY COUNTY, TEXAS, WHEREIN BY ERROR OR MISTAKE, THE LEGAL DESCRIPTION WAS INCORRECT AND THIS DEED IS MADE BY GRANTOR TO CORRECT SAID MISTAKE AND IN ALL OTHER RESPECTS CONFIRMING SAID PRIOR DEED.

EXECUTED this 17 day of Octobon, 2006.

FM 1314-OAK TREE, LTD., a Texas Limited Partnership

By: WG Thomston
Title: General Butta

THE STATE OF TEXAS

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COUNTY OF MONTGOMERY DALLAS)(

This instrument acknowledged before me on this 17 day of October, 2006, by William F. Thomas, Grand Partnership., on behalf of said entity, in the capacity) herein stated.

SUSAN J. KAST Notary Public, State of Texas My Commission Expires December 10, 2008 NOTARY PUBLIC, STATE OF TEXAS

AFTER RECORDING RETURN TO:

Po Box 100 17/2 Porter, Tx 77365

G:\Gregg\Montgomery County Title\Deed\FM1314cor.vl.wpd



P.O. Box 2501 • Conroe, Texas 77305 (936) 756-5266 • Fax (936) 756-5281 September 14, 2006

BEING 78.975 ACRES OF LAND IN THE T. & N. O. R. R. CO. SURVEY, A-566, MONTGOMERY COUNTY, TEXAS, SAID 78.975 ACRES BEING OUT OF THE WILLIAM G. THOMPSON, TRUSTEE 97.952 ACRE TRACT OF LAND DEED OF WHICH IS RECORDED UNDER COUNTY CLERK'S FILE NUMBER 9025436, OF THE MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID 78.975 ACRES BEING A RE-SURVEY OF THE LITTLE PRINCESS'S INVESTMENT COMPANY 77.68 ACRE TRACT OF LAND DEED OF WHICH IS RECORDED UNDER COUNTY CLERK'S FILE NUMBER 2006 - 052253, MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID 78.975 ACRES BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

COMMENCING at a 2" iron pipe found for the Northeast corner of the said 97.975 acre tract, the Northeast corner of the Clifford H. Potter and wife Theresa L. Potter 10.000 acre tract of land deed of which is recorded under County Clerk's File Number 2004-124634, Montgomery County Real Property Records, the Lower Northwest corner of the Clifford H. Potter and wife Theresa L. Potter 124.040 acre tract of land deed of which is recorded under County Clerk's File Number 99046094, Montgomery County Real Property Records, same being the called for Northeast corner of the T. & N. O. R. R. Co. Survey, A-566, the Northwest corner of the R. J. Goss Survey, A-719, in the South line of the T. & N. O. R. R. Co. Survey, A-572;

THENCE S. 00° 12' 52" E., along the East line of the said 10.000 acre tract, a West line of the said 124.040 acre tract for a distance of 896.31 feet to a ½" iron rod found for the Southeast corner of the 10.000 acre tract, the Northeast corner of the 77.68 acre tract, the Northeast corner and POINT OF BEGINNING of the herein described tract;

THENCE S. 00° 14' 08" E., continuing along a West line of the 124.040 acre tract; Thompson's East line, passing at 953.17 feet a ½" iron rod found for the apparent Southwest corner of the 124.040 acre tract, the apparent Northwest corner of the Patsy M. Graham 100 acre tract of land deed of which is recorded under County Clerk's File Number 2003-135100, Montgomery County Real Property Records and continuing in all for a distance of 2,636.55 feet to a ½" iron rod found for the Southeast corner of the herein described tract, the Southeast corner of the 77.68 acre tract, in the North line of Old Houston Acres, Section 1, a Subdivision, map of which is recorded in Cabinet S, Sheet 16, Montgomery County Map Records;

THENCE S. 89° 39' 42" W., along the North line of Old Houston Acres, Section 1 for a distance of 1,590.10 feet to a ½" iron rod found for it's Northwest corner, the Southwest corner of the 77.68 acre tract, the Southwest corner of the herein described tract, in the East line of Old Houston Road, (120' Vol. 969, Pg. 305, M.C.D.R.);

THENCE N. 05° 04' 37" E., along the East line of Old Houston Road for a distance of 377.57 feet to a ½' iron rod set for the beginning of a curve to the right;

THENCE in a Northeasterly direction continuing with the East line of Old Houston Road along said curve to the right having a radius of 2,853.51 feet, a central angle of 16° 21' 30" for an arc length of 814.69 feet, chord bears N. 13° 15' 22" E., 811.93 feet to a ½" iron rod set for the end of curve;

THENCE N. 21° 26' 07" E., continuing along the East line of Old Houston Road for a distance of 1,864.90 feet to a ½" iron rod set for the Northwest corner of the herein described tract;

THENCE S. 69° 17' 23" E., leaving the East line of Old Houston Road, passing at 7.99 feet a ½" iron rod found for the Northwest corner of the 77.68 acre tract, the Southwest

corner of the Potter 10.000 acre tract and continuing in all along the South line of the 10.000 acre tract for a distance of 724.96 feet to the POINT OF BEGINNING and containing in all 78.975 acres of land.

This description is based upon a Land Survey and drawing as prepared by Jeffrey Moon and Associates, Inc. dated September 14, 2006. Bearings are based upon the platted North line of Old Houston Acres Section 2.

Jeffrey Moon

Registered Professional Land Surveyor No. 4639

Oldhouston3

FILED FOR RECORD

06 OCT 27 PM 1:59

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was filled in
File Number Sequence on the date and at the time
stamped herein by me and was duly RECORDED in
the Official Public Records of Real Property at
Montgomery County, Texas.

OCT 2 7 2006

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

